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**SEPTEMBER 20, 2002**

# Senator Bill Morrow



## Capitol Update

### The Perfect Storm for Small Businesses and Jobs

It's been a killer of a year in the California Legislature – a job killer of a year, that is.

Despite an economic slump and a \$24 billion budget deficit, the state legislature has sent Governor Davis a slate of bills that will add billions of dollars in new costs for doing business in California. Economic experts and business leaders are warning correctly that if Governor Davis signs these bills, the result will be higher taxes, increased regulations and more lawsuits.

These bills would:

- Force employers to provide paid family leave for up to six weeks (SB 1661)
- Prohibiting the use of binding arbitration to settle claims brought under the state's Fair Employment and Housing Act (SB 1538)
- Dramatically increase fines and penalties for workplace health and safety violations (AB 2837)

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## **Here's a summary of what's at issue:**

### **Paid Leave**

If workers need time off to take care of an ill family member or relative, both state and federal law allow them to take up to 12 weeks of unpaid leave in a year without having to fear the loss of their job. SB 1661 would require six weeks of that leave to be *paid* leave. On its face, that may sound like a good idea. But in fact, it's a mandated tax increase on employers that will cost them nearly \$200 million a year.

Since this bill would cover all California employers, it would punish small businesses in the state. The current family leave laws exempt small businesses for good reason: if they lost key workers or a large percentage of their workforce, the direct and indirect costs could put them out of business. At a time when many small businesses are operating on thin margins, this new mandate could make the difference between staying in business and closing up shop.

### **Prohibiting Arbitration**

One of the effective and least costly ways that both employers and employees have found to resolve labor disputes is binding arbitration instead of court. For employers, it's far less expensive than a protracted legal case. For employees, it can actually mean more in the claims they seek. Even the American Civil Liberties Union has found that employees who went to arbitration received eight percent *more* in the settlement they sought than those who took their cases to court.

SB 1538 would prohibit arbitration agreements between employers and employees for any claims of discrimination brought under the state's Fair Employment and Housing Act. The result? More cases will be filed before the state's Fair Employment and Housing Commission. Either more state workers to process these cases – or longer times to process them. And an early Christmas present for the trial lawyers who stand to lose the most from arbitration as an alternative.

### **Workplace Safety**

For years, state law has imposed both civil and criminal fines and penalties on employers who violate the state's workplace health and safety standards, and required employers to notify state officials in cases of an

employee's serious injury, illness, or death. And in 1999, the governor signed into law a measure that substantially increased the penalties for safety violations. If you're a businessman or woman in California, the laws are already clear and the costs of violating them are severe.

But for some in the Legislature, that's not enough. AB 2837 would dramatically increase civil penalties on employers for the second time in three years. It's nothing less than a hostile signal to those firms thinking of doing business in California that they are not welcome here.

A decade ago, when California was in the midst of the worst recession since the Great Depression, the Council on California Competitiveness found that "jobs are leaving because staying is too hard and too expensive," and that the state had "created a nightmarish obstacle course for business, job, and revenue growth." Lawmakers responded by crossing party lines and passing legislation that encouraged job creators and innovators to stay in California and rebuild California's economy.

Yet today, with California facing new challenges to its economic strength, the Legislature has failed to learn anything from the 1990's. By putting higher taxes and more regulations on business, we're poised to return to the days when California was a job-killing machine. As Governor Davis considers these and the other job-killer bills now on his desk, let's hope he can remember the lesson the Legislature forgot.

### *Great Links*

concerning Small Businesses and  
California jobs...

California Chamber of Commerce

<http://www.calchamber.com/>

Coalition for Practical Reform

<http://www.citiessavejobs.com/>

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